



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

September 11, 2014

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To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to be "W. T. Fujioka", written over a horizontal line.

SACRAMENTO UPDATE

Executive Summary

This memorandum contains reports on the following:

- **Pursuit of County Position on Legislation**
 - **AB 2124 (Lowenthal).** This measure would establish a pilot program in Los Angeles County to authorize a superior court judge to defer sentencing first-time misdemeanor defendants, with certain exceptions, for up to 12 months. The District Attorney's Office indicates that the pilot program as proposed by this measure is unnecessary as the County already manages its own diversion programs, which pursuant to recent Board actions, are also in the process of being expanded. Therefore, consistent with Board-approved policy to oppose any abridgement or elimination of the Board of Supervisors' powers and duties unless the change promotes a higher priority of the Board, and unless otherwise directed by the Board, **the Sacramento advocates will oppose AB 2124.**
- **Status of County-Advocacy Legislation**
 - **County-opposed AB 1522 (Gonzalez)** - related to paid sick days, was signed by the Governor on September 10, 2014.

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Pursuit of County Position on Legislation

AB 2124 (Lowenthal), which as amended on August 22, 2014, would establish a pilot program in Los Angeles County to authorize a superior court judge to defer sentencing for a first-time misdemeanor defendant, with certain exceptions, for up to 12 months. Under this measure, the judge may order the defendant to comply with appropriate terms, conditions, or programs, which upon completion, would allow the judge to strike the defendant's plea and dismiss the action against the defendant.

Existing law authorizes counties to establish pretrial diversion programs for defendants who have been charged with a misdemeanor offense and authorizes other diversion programs, including for defendants with cognitive developmental disabilities, defendants in nonviolent drug cases, and traffic violations.

As amended, AB 2124 would enact, until January 1, 2018, the Deferral of Sentencing Pilot Program in Los Angeles County which would:

- allow superior court judges in Los Angeles County, at their discretion and over the objection of the prosecution, to defer sentencing for certain first-time misdemeanor defendants for a period not to exceed 12 months;
- allow the judge, after the deferral period, to strike the defendant's plea and dismiss the action against the defendant provided that the defendant has completed all conditions ordered by the court and made full restitution;
- disqualify a defendant from these provisions under certain criteria, including if the defendant: a) has been convicted of any misdemeanor in the previous 10 years, a misdemeanor involving force or violence, or a felony; b) has had his or her sentence deferred pursuant to this chapter or any other law; c) is required to serve mandatory incarceration upon conviction; and d) is required to register as a sex offender, among other provisions.

This bill states that it would apply to first-time misdemeanor defendants in order to reduce the stigma that is often associated with a criminal record. AB 2124 also cites legislative intent that no new diversion programs are created, and that judges shall order a defendant, for whom judgment is deferred, to complete the same obligations that would have been imposed had judgment been entered.

The District Attorney's Office, which opposes the bill, indicates that the pilot program as proposed by AB 2124 is unnecessary and overreaching as the County already manages its own diversion programs, which are also in the process of being expanded. The

District Attorney's Office further notes that this bill, as amended late in the session, does not take into consideration other offenses that should be excluded from sentencing deferral. For example, while the bill excludes force or violence against a peace officer, it neglects to exclude charges of attempted force or violence against a peace officer, or threats of violence. The District Attorney's Office believes that it is in the best interest of the County that diversion programs be developed locally under the auspices of prosecutors, and through the collaboration of all of the stakeholders, including the Superior Court judges.

It is important to note that AB 2124 was amended at the end of the Legislative Session to only apply to Los Angeles County, as a pilot program, as opposed to statewide; however, the County was not appropriately consulted on the matter. The County has recently taken steps to expand its existing diversion programs. On May 6, 2014, the Board of Supervisors adopted a motion that recognized that diversion was a missing component of the County's jail master plan. Subsequently, on July 29, 2014, the Board of Supervisors adopted the initial steps to support a more comprehensive diversion plan for the County. As such, the District Attorney is leading efforts to develop a comprehensive and integrated pre- and post-adjudication diversion program in partnership with the County's Sheriff's Department, Public Defender, and the Departments of Probation, Public Health, Health Services, Mental Health and Public Social Services.

Consistent with the District Attorney's opposition to AB 2124 and Board-approved policy, this office recommends an oppose position on this measure. Therefore, consistent with Board-approved policy to oppose any abridgement or elimination of the Board of Supervisors' powers and duties unless the change promotes a higher priority of the Board, and unless otherwise directed by the Board, **the Sacramento advocates will oppose AB 2124.**

AB 2124 is similar to AB 994 (Lowenthal) of 2013, which would have authorized the prosecuting attorney or the Superior Court to offer diversion for first-time misdemeanor defendants. AB 994 was vetoed by Governor Brown on October 13, 2014. In his veto message, the Governor stated that counties can establish diversion programs under current law, and that many already have excellent diversion programs that suit their local circumstances. The Governor further noted that prosecutors and counties are best situated to decide whether, or what kind of, a diversion program would be appropriate.

AB 2124 is supported by: the American Probation and Parole Association; California Attorneys for Criminal Justice; California Judges Association; Californians for Safety and Justice; Conference of California Bar Associations; Judicial Council of California; Los Angeles County Superior Court; Pacific Educational Services, Inc.; and Taxpayers

Each Supervisor
September 11, 2014
Page 4

for Improving Public Safety. It is opposed by: the Alameda County District Attorney's Office; Anaheim City Attorney's Office; California District Attorneys Association; California Partnership to End Domestic Violence; Citizens for Law and Order; Crime Victims Action Alliance; and Los Angeles County District Attorney's Office.

This measure is currently with the Governor for his consideration.

Status of County-Advocacy Legislation

County-opposed AB 1522 (Gonzalez), which as amended on August 29, 2014, would require employers, beginning July 1, 2015, to provide paid sick days to employees who work 30 or more days in a calendar year, was signed by the Governor on September 10, 2014. This measure is Chapter 317, Statutes of 2014, and takes effect July 1, 2015.

We will continue to keep you advised.

WTF:RA
MR:PC:ma

c: All Department Heads
Legislative Strategist
Local 721
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California Contract Cities Association
Independent Cities Association
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